

The Future of Police Accountability

by Chief Dan Flynn

Heavily publicized critical incidents involving police conduct over the past two years have left many citizens demanding greater transparency and accountability by the police. Meanwhile, many in the police community are left wondering why positive messages involving value-based policing and good officers of high integrity often fail to reach the public, or at least major segments of the public. It is a dichotomy likely to extend into 2016 and beyond.

An emerging strategy that helps bridge the gap between the police and community is entitled “Procedural Justice.” Based partly on the theory that the public, more than ever, wants “voice” or active engagement with matters that effect them, Procedural Justice also portends that employees, e.g., police officers, want voice in matters that effect them as well. Theoretically, when both sides of a misunderstanding achieve the level of voice they seek, they will become more in harmony with one another.

Even though the Marietta Police Department (MPD) tends to be a leader in police-community relations; part of the solution rather than part of the problem, we must continually seek new and best practices for contemporary community engagement. Thus, in 2015 we worked with the U.S. Department of Justice, Community Oriented Policing Service, to provide Procedural Justice training to all MPD supervisors, and with a certified MPD instructor (Major Kelker) provided Procedural Justice training to all MPD officers. All of the training was very well received and undoubtedly it positions the department for greater insight into the community we serve.

Notwithstanding efforts by the police to better understand the needs of the American public to improve relations, the public also needs to understand the systems or rights they already have to achieve transparency and rational accountability of the police. To this end, we have begun proposing that police professional associations consider developing, endorsing and publicizing what amounts to a citizens’ bill of rights for police accountability. Informing the public of what they can rightfully expect from professional police departments operating as they should will likely enhance police-community relations.

The following is an excerpt of the initial proposal for the proposed citizens’ bill of rights:

Citizens can expect their police departments to:

1. Be transparent by willingly complying with state open records laws as well as the Federal Freedom of Information Act. Police departments should not impede or unnecessarily delay anyone from requesting or receiving public records concerning police conduct.
2. Provide the public notice, by public announcement, of all in-custody and police use of force-related deaths. Likewise, provide public notice of decisions to criminally and administratively charge or exonerate officers involved in use-of-force-related or in-custody deaths.
3. Have in place a fair objective internal or external system for receiving and investigating citizen complaints of police misconduct. All investigations should include documented interviews of

the complainant(s), documented interviews of all witnesses for and against the accused officer(s), evaluation of all physical, photographic, digital and documentary evidence and a final disposition within a reasonable time. Final dispositions should be based on a preponderance of evidence standard of sustained, not-sustained, justified (exonerated) or unfounded. Once final dispositions are reached for each allegation, the public shall be entitled to obtain copies or otherwise review the results. Personal or identifying information about officers would be redacted or released in conformance with state law.

4. Provide citizens access to view finalized police discipline files as allowed by state open records laws.
5. Commence administrative action against officers, including suspension, demotion, or termination of employment, based only on sustained findings of violations of law, policies, or rules. Sustained findings must be based, as a minimum, on a preponderance of evidence of standard and administrative action (discipline) and should be commensurate with the severity of the violation.
6. Immediately upon the occurrence of an in-custody or police use of force death initiate and/or request an independent investigation including:
 - a. A criminal death investigation by a law enforcement agency of appropriate jurisdiction.
 - b. An independent internal (administrative) investigation conducted by the chief law enforcement official of the involved police agency.
 - c. An investigation by the prosecuting authority of the concerned jurisdiction.
 - d. A citizen's investigation conducted by the Grand Jury of the concerned jurisdiction (assuming a criminal prosecution has not already commenced).
7. Comply with established legal and administrative policy standards for criminal justice agencies. Such standards include, but are not limited to the reasonable person standard for self - defense, reasonable suspicion for stops, probable cause for searches, arrests, and citations, and preponderance of evidence for non-criminal or administrative proceedings.

Conclusion

While this list of public rights or reasonable expectations is a work in progress, we believe informing the public of them will encourage the strategy of giving the public voice and lead to better police-community relations.